

<p>DISTRICT COURT, WATER DIVISION 1 STATE OF COLORADO</p> <p>Weld County Courthouse 901 9th Avenue Greeley, Colorado 80631 Telephone: (970) 475-2510</p>	
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF SYLVAN DALE RANCH, LLLP,</p> <p>Applicant,</p> <p>IN LARIMER COUNTY</p>	▲COURT USE ONLY▲
<p>Attorneys for the City of Loveland:</p> <p>DEREK L. TURNER, #44091 City of Loveland Assistant City Attorney 500 East Third Street, Suite 330 Loveland, CO 80537 Telephone: (970) 962-2549 derek.turner@cityofloveland.org</p>	<p>Case No. 14CW 3016</p> <p>Division 4</p>
STATEMENT OF OPPOSITION OF THE CITY OF LOVELAND	

1. Name, mailing address and telephone number of Opposer:

City of Loveland (“Loveland”)
Attn: Larry D. Howard, Senior Civil Engineer – Water Resources
200 North Wilson Avenue
Loveland, Colorado 80537
Telephone: (970) 962-3703

Please send all correspondence and pleadings to:

Derek Turner, Assistant City Attorney
500 East Third Street, Suite 330
Loveland, CO 80537
Telephone: (970) 962-2549
Email: derek.turner@cityofloveland.org

2. State facts as to why the Application should not be granted, or why it should be granted only in part or on certain conditions:

- A. Loveland owns numerous water rights that divert from the Big Thompson River, tributary to the South Platte River, which may be injured if the Application is granted without appropriate protective terms and conditions.
- B. The Applicant must prove that the change of water rights will not result in an expansion of the originally-decreed water rights.
- C. The Applicant must meet its burden of proof with respect to each element of its claims.
- D. The Applicant must prove that the replacement water will be adequate to replace all depletions in amount, timing, and location, and that the replacement water will be of the required quality and quantity.
- E. The Applicant must provide accurate measurement and accounting for its claims, including the requested plan for augmentation.
- F. The Applicant's right to divert water under the requested water right must be restricted to the times when the water rights described in the Application are in priority.
- G. The Applicant must be placed on strict proof with respect to each element of its claims for approval of water rights, including, but not limited to:
 - 1. The Applicant's ownership of or enforceable property interest in the structures and water rights included in the Application;
 - 2. Whether the Applicant has taken the steps required under Colorado law to initiate the claimed water right and, if so, on what date(s), in what amount(s) and for what lawful beneficial uses(s);
 - 3. Whether the claimed appropriation can and will be completed with diligence and within a reasonable time, including, but not limited to, whether water is available for appropriation in the amount claimed and whether the claimed project is technically and financially feasible;
 - 4. The protective terms and conditions which must be imposed on the Applicant to prevent injury to Loveland's water rights; and
 - 5. The measurement, recording, and accounting obligations that must be assumed by the Applicant in order to assure proper compliance with all terms and conditions of any decree ultimately entered herein.

- H. The Applicant must prove that it has permission to use all diversion, delivery, and storage structures necessary to use the subject water rights and to operate the plan for augmentation in the manner described in the Application.
3. The Application does not contain sufficient information to enable Loveland to determine whether other grounds for objection exist. Therefore, Loveland reserves the right to state further grounds for objection when more information is available.
4. To the extent the Application is treated as a complaint to which a responsive pleading is required under C.R.C.P. 8, Loveland submits this statement of opposition as a responsive pleading in compliance with the requirements in C.R.C.P. 8. Because the First Amended Application does not contain short and plain statements of the claims that show Applicant is entitled to the relief it is seeking, Loveland is unable to fairly deny or admit to the substance of each allegation and/or claim in the Application. Pursuant to C.R.C.P. 8(d), Loveland specifically denies all allegations, averments, and claims for relief contained in the Application.
5. Loveland's Statement of Opposition is continuing in nature and shall apply equally to any further amended Application that may be filed herein, so that the filing of a separate statement of opposition to any such amended Application shall not be necessary.

Submitted this 21th day of February, 2017.

CITY OF LOVELAND

By: 
Derek L. Turner, #44091
Assistant City Attorney

Attorneys for Opposer City of Loveland

VERIFICATION

STATE OF COLORADO)
)
COUNTY OF LARIMER) SS.

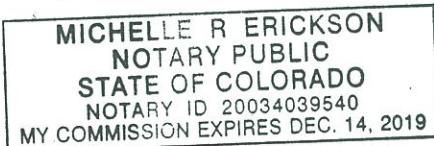
I, Larry Howard, state under oath that I am the Senior Civil Engineer –Water Resources, for the City of Loveland, that I have read the foregoing Statement of Opposition, and that the same is true to the best of my knowledge, information, and belief.

Larry Howard
Larry Howard

SUBSCRIBED AND SWORN to before me this 24th day of February,
2017.

Witness my hand and official seal.

(S E A L)



Michelle R. Erickson
Notary Public

My commission expires: 12-14-2019

CERTIFICATE OF SERVICE
(Case No. 14CW 3016, Water Division 4)

The undersigned certifies that on this 27th day of February, 2017 a true and correct copy of the foregoing **STATEMENT OF OPPOSITION OF CITY OF LOVELAND** was filed and served electronically on the parties via Colorado Courts E-Filing as follows:

Name	Type	Attorney	Organization
Division 1 Engineer	Division Engineer	Division 1 Water Engineer	State of Colorado DWR Division 1
State Engineer	State Engineer	Colorado Division of Water Resources	State of Colorado - Division of Water Resources
Sylvan Dale Ranch, LLLP	Applicant	Donald Everett Frick William Ross Fischer	Fischer Brown Bartlett and Gunn PC
Thompson Water Users Association	Opposer	Jeffrey J Kahn Scott E Holwick	Lyons Gaddis Kahn Hall Jeffers Dworak and Grant PC
Town of Berthoud	Opposer	Andrea Aseff Kehrl Paul Zilis	Vranesh and Raisch


This document was e-filed pursuant to Rule 121. A duly signed original of this document is on file at the City of Loveland City Attorney's Office